



metroplan orlando
A REGIONAL TRANSPORTATION PARTNERSHIP

CONSULTING AGREEMENT FOR STATE OF FLORIDA GOVERNMENT RELATIONS SERVICES

THIS CONSULTING AGREEMENT made and entered into as of the date last signed by both parties, by and between the Orlando Urban Area Metropolitan Planning ORGANIZATION, d/b/a MetroPlan Orlando, A Regional Transportation Partnership, a public and governmental body existing under and by virtue of the laws of the State of Florida (the "ORGANIZATION"), with a business address at 250 South Orange Avenue, Suite 200, Orlando, Florida 32801, and Peebles & Smith, Inc. (the "CONSULTANT") with a business address at 301 South Bronough Street, Suite 500, Tallahassee, FL 32301 (ORGANIZATION and Consultant sometimes collectively referred to herein as the "Parties").

WITNESSETH

WHEREAS, ORGANIZATION wishes to employ CONSULTANT to advise and assist it with respect to State of Florida Governmental Relations Services, and

WHEREAS, CONSULTANT is qualified, willing and able to provide the desired services on the terms and conditions set forth herein

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto agree as set forth below:

Responsibilities of CONSULTANT include:

CONSULTANT will represent ORGANIZATION with the Florida State Legislature, its committees, the Executive Branch of the State of Florida Government and with other state agencies. The goal of such representation will be to secure passage of state legislation and secure funding for programs and projects that have been identified by ORGANIZATION as priorities. Regional transportation priorities for the Florida Legislative Session(s) will be approved by the MetroPlan Orlando Board each year. These are subject to change. Explicit responsibilities of CONSULTANT include:

- Coordinate and pursue efforts to establish and maintain relationships with state agencies to secure support of the Organization's funding and legislative priorities.
- Provide advice to the Organization in putting together annual legislative priorities.
- Assist the Organization in developing a plan for pursuing the approved State legislative priorities.
- Work to develop support and passage of the Organization's State legislative priorities.
- Advocate positions before the State Legislature and the Executive Branch that are beneficial to the Organization and oppose harmful measures.
- Coordinate Organization's State legislative activities with other groups having similar interests, including the Florida Metropolitan Planning Organization Advisory Council.

- Monitor and report state legislative and regulatory actions of importance to the Organization. Review and report on all pertinent pending transportation legislation and appropriations affecting Central Florida and the Organization, directly or indirectly, including, but not limited to, matters concerning highways, public transportation, airport-related surface transportation systems, bicycle and pedestrian facilities, traffic safety, environmental regulations, organizational issues and funding. This review shall also include all appropriate pre- and post-legislative session committee meetings, hearings and conferences.
- Identify additional areas where state transportation funding is available to local governments.
- Assist in the preparation of requests for funding and grant applications for various transportation projects to the Florida Department of Transportation, other state agencies and the Florida Legislature.
- Provide specialized assistance in expediting and processing applications submitted to state agencies.
- From time to time, facilitate meetings between MetroPlan Orlando Board members, staff and other local government officials with members of the Legislature and state agencies.
- The Consultant will work closely with the Executive Director and staff who will be available to communicate the Organization's priorities and provide background information and data to assist the Consultant in advancing the Organization's efforts in Tallahassee.
- Upon request, provide assistance with federal legislative matters or direct the Organization to effective consultant contacts in Washington, D.C.

Conflict Guidelines for Professionals Representing MetroPlan Orlando

1. A consultant shall not represent a client if the representation of that client will be directly adverse to the interests of MetroPlan Orlando unless the consultant reasonably believes the representation will not adversely affect his responsibilities to and relationship with MetroPlan Orlando and MetroPlan Orlando and the other client consent after consultation.
2. A consultant shall not represent a client if the consultant's exercise of independent professional judgment in the representation of that client may be materially limited by the consultant's responsibilities to MetroPlan Orlando unless the consultant reasonably believes the representation will not be adversely affected and MetroPlan Orlando consents after consultation.
3. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.
4. The term "interests of MetroPlan Orlando" as used in paragraph 1 and "responsibilities to MetroPlan Orlando" as used in paragraph 2 above shall mean the MetroPlan Orlando legislative policy agenda adopted by the Board each year, the transportation projects which are listed in MetroPlan Orlando's Long Range Transportation Plan and the projects which the consultant has been advised may be included in an amended or updated Long Range Transportation Plan.

Revisions

ORGANIZATION may suggest revisions to the Scope of Work, highlighting or de-emphasizing certain facets or activities, as ORGANIZATION'S priorities evolve and new information becomes available.

Specific performance

Specific activities and deliverables by/from CONSULTANT should include the following:

- CONSULTANT'S goal should be to secure passage of state legislation and secure funding for programs and projects that have been identified by ORGANIZATION as priorities.
- CONSULTANT should pursue major funding opportunities and investigate other opportunities for priority projects identified by ORGANIZATION, with the support and assistance of ORGANIZATION staff and the Board of ORGANIZATION facilitated by CONSULTANT'S vital connections with appropriate State agencies, elected officials and staff.
- CONSULTANT should research and provide information to ORGANIZATION on existing and emerging legislation; availability of funding; distribution of funding; techniques to be used by ORGANIZATION to capitalize on opportunities; and examples of successful applications.
- CONSULTANT should focus on criteria setting for eligibility, which may include replacing or modifying existing rules, regulations or laws.
- CONSULTANT should monitor legislation and forward at a minimum, a monthly report to ORGANIZATION for distribution to appropriate staff. Critical information shall be reported more frequently.
- CONSULTANT should demonstrate a keen understanding of ORGANIZATION's priorities, policy objectives, project merits and supporting data.
- CONSULTANT should research and gather information to support ORGANIZATION'S issues and to heighten the state government's awareness that ORGANIZATION has significant and demonstrated needs.

Reporting

CONSULTANT will prepare and present oral reports as needed or as requested on a periodic basis (more frequently while engaged in special projects such as during the Legislative session). CONSULTANT shall provide ORGANIZATION each month with detailed narrative reports delineating all services provided by CONSULTANT in the previous month and the results of CONSULTANT's efforts. Each report required herein will be submitted within ten (10) days after the end of the applicable reporting period.

Fees and Disbursements

- a. ORGANIZATION shall pay to CONSULTANT, for consultant services, herein provided, an annual fee of SIXTY THOUSAND AND 00/100 DOLLARS (\$60,000.00) in connection with this Agreement and CONSULTANT'S performance hereunder. The fee shall be disbursed monthly.

The fee shall be paid in twelve equal installments of FIVE THOUSAND DOLLARS AND NO CENTS (\$5,000.00) a month from November 2017 through October 2018.

- b. Disbursements: Qualified, direct expenses as supported by receipts or appropriate documentation at rates per Florida Statutes Chapter 112 shall be reimbursed. Expenses must be approved in advance by the Organization's Executive Director and in compliance with the Organization's policies.
- c. Payment Schedule: Invoices received from CONSULTANT pursuant to this Agreement shall be reviewed by the initiating department. If services have been rendered in conformity with the Agreement, the invoice will be sent to the Finance & Administration Department for payment. Invoices will be paid in accordance with the State of Florida Prompt Payment Act.
- d. Availability of Funds: ORGANIZATION'S performance and obligation to pay under this Agreement is contingent upon an annual appropriation for its purpose by the MetroPlan Orlando Board.

Books and Records

CONSULTANT shall maintain complete and accurate records relating to the number of hours spent by CONSULTANT in performing services hereunder, in a form reasonably acceptable to ORGANIZATION. Such records shall, upon reasonable notice by ORGANIZATION, be made available to ORGANIZATION and ORGANIZATION shall have the right, through its representatives, to inspect and audit such records for the purpose of verifying the accuracy thereof. CONSULTANT shall retain all such records and make the same available to ORGANIZATION until the earlier of the expiration of five (5) years after the termination of this Agreement or five (5) years from the date the final statement is rendered by CONSULTANT for the services to which such records related.

Term

The term of this Agreement shall be from November 1, 2017 through October 31, 2020 subject to annual renewal at the sole discretion of the MetroPlan Orlando Board. The Agreement may be renewed for two (2) additional one (1) year periods up to a maximum cumulative total of five (5) years at the same fees, terms and conditions. Any change in fee, terms or conditions shall be accomplished by written amendment to this contract.

This Contract may be terminated by CONSULTANT upon thirty (30) days prior written notice to ORGANIZATION. It may also be terminated, in whole or in part, by ORGANIZATION, with or without cause, immediately upon written notice to CONSULTANT.

Promptly after termination of this Agreement, CONSULTANT shall deliver to ORGANIZATION all reports, memoranda and other documents accumulated or prepared by it under this Agreement, whether completed or in process. If this Agreement is terminated prior to expiration of the term, ORGANIZATION shall not be liable for any fees or expenses beyond the date of termination (i.e., fees to be prorated to the termination date). Any order issued during the effective date of this contract, but not completed within the contract period, shall be completed by CONSULTANT within the time specified in the order. The contract shall govern CONSULTANT'S and ORGANIZATION'S rights and obligations with respect to the extent as if the order were completed during the contract's performance period.

Notices

All notices required to be given by ORGANIZATION to CONSULTANT hereunder shall be in writing and shall be delivered by United States mail, postage prepaid, at CONSULTANT'S address set forth below or to such other address as CONSULTANT may from time to time request in writing. All notices required to be given to ORGANIZATION hereunder shall be in writing and shall be given by United States certified mail, return receipt requested, postage prepaid, at ORGANIZATION'S address set forth below:

CONSULTANT: Peebles & Smith, Inc.
P.O. Box 10930
Tallahassee, FL 32302
Phone 850.681.7383

ORGANIZATION: Executive Director, MetroPlan Orlando
250 South Orange Ave, Ste 200
Orlando, FL 32801
Phone 407.481.5672 Ext 313
Fax 407.481.5680

Remedies; Attorneys' Fees and Costs

All remedies provided in this Agreement shall be deemed cumulative and additional and not in lieu of or exclusive of each other or of any other remedy available to either party at law or in equity. In the event one party shall receive a judgment in its favor in any action at law or in equity arising hereunder, the non-prevailing party will pay all costs (including all costs, expenses and reasonable attorneys' fees incurred by the other party through any and all appeals) referable thereto. In the event each party shall receive a partial judgment in such action, such costs shall be equitably apportioned between the parties by the court.

Any claim, dispute or other matter in question arising out of or relating to this Agreement or the breach thereof, except for claims which have been waived pursuant to this Agreement, if not settled in a manner mutually agreeable to both CONSULTANT and ORGANIZATION shall be brought only in a court of applicable jurisdiction located in Orange County, Florida.

Warranties of Consultant

CONSULTANT represents and warrants unto ORGANIZATION that no member, officer, employee or agent of ORGANIZATION has any personal interest, either directly or indirectly, in the business of CONSULTANT to be conducted hereunder. CONSULTANT further represents and warrants to ORGANIZATION that it has not employed or retained any person, company, corporation, individual or firm other than a bona fide employee or independent contractor working for CONSULTANT, to solicit or secure this Agreement. Except as herein provided, it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee or independent contractor working for CONSULTANT, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this Agreement.

Protection; Waiver

No recourse under or upon any obligation, covenant or agreement contained in this Agreement (or any other agreements or documents pertaining to the services of CONSULTANT hereunder, as such may from time to time be altered or amended in accordance with the provision hereof) shall be had against

any official, employee or agent of ORGANIZATION for any claim arising out of this Agreement or the services rendered pursuant to it. Any and all personal liability of every nature (whether at common law or in equity, or by statute or otherwise) of any ORGANIZATION official, employee or agent, for any claim arising out of this Agreement or the services rendered pursuant to it, is hereby expressly waived and released as a condition of and as consideration for the execution of this Agreement.

Indemnification

To the fullest extent permitted by law, CONSULTANT shall defend, indemnify, and hold harmless ORGANIZATION, its officials, agents, and employees from and against any and all claims, suits, judgments, demands, liabilities, damages, cost and expenses (including attorney's fees) of any kind or nature whatsoever arising directly or indirectly out of or caused in whole or in part by any act or omission of CONSULTANT or its subcontractors (if any), anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable; excepting those acts or omissions arising out of the sole negligence of ORGANIZATION.

Miscellaneous Provisions

- A. The rights granted to CONSULTANT hereunder are nonexclusive, and ORGANIZATION reserves the right to enter into agreements with other persons or firms to perform services including those provided hereunder.
- B. CONSULTANT and its employees shall promptly observe and comply with applicable provisions of all published federal, state and local laws, rules and regulations which govern or apply to the services rendered by CONSULTANT hereunder, or to the wages paid by CONSULTANT to its employees.
- C. CONSULTANT shall procure and keep in force during the term of this Agreement all necessary licenses, registrations, certificates, permits and other authorizations as are required by law in order for CONSULTANT to render the service required hereunder.
- D. All reports and documents produced by CONSULTANT under the terms of this Agreement shall at all times be the exclusive property of ORGANIZATION.
- E. CONSULTANT shall not use the name of ORGANIZATION in any promotional material without the prior written consent of ORGANIZATION.
- F. Except as expressly provided for in this Agreement, CONSULTANT is not authorized to act as ORGANIZATION's agent hereunder and shall have no authority, expressed or implied, to act for or bind ORGANIZATION hereunder, either in CONSULTANT'S relations with sub-CONSULTANTS, or in any other manner whatsoever.
- G. CONSULTANT may not assign this Agreement, either for the benefit of creditors or for someone to perform the services.
- H. CONSULTANT shall not by virtue of this Agreement be considered an employee of ORGANIZATION. CONSULTANT shall at all times during this Agreement be considered an independent contractor.
- I. CONSULTANT has been advised that ORGANIZATION, and its activities, are subject to (i) the Public Records Law, Chapter 119, Florida Statutes, which imposes board disclosure

requirements upon ORGANIZATION with regard to documents deemed to be public records, and (ii) the Government-in-the-Sunshine-Law, Section 286.011, Florida Statutes, which requires, with limited exceptions, ORGANIZATION to conduct business in open meetings. Consultant will cooperate with ORGANIZATION to observe and comply with the requirements of said laws in performing the Services. The Consultant agrees that it will comply with all ORGANIZATION policies and procedures in observing the requirements of said laws.

Insurance

- A. Before execution of the contract by ORGANIZATION and commencement of the operations and/or services to be provided, and during the duration of the contract, CONSULTANT shall file with ORGANIZATION current certificates of all required insurance on forms acceptable to ORGANIZATION, which shall include the following provisions:
 - 1. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida and acceptable to ORGANIZATION.
 - 2. The Certificates shall clearly indicate that CONSULTANT has obtained insurance of the type, amount and classification as required for strict compliance with this insurance section.
 - 3. No material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to ORGANIZATION.
- B. CONSULTANT shall require and ensure that each of its subcontractors providing services hereunder (if any) procures and maintains, until the completion of the services, insurance of the types and to the limits specified herein.
- C. Coverage's Required:
 - 1. Workers' Compensation - CONSULTANT shall provide coverage for its employees with statutory workers' compensation limits, and no less than \$100,000.00 for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of ORGANIZATION and its agents, employees and officials.
 - 2. Commercial General Liability - CONSULTANT shall provide coverage for all operations including, but not limited to Contractual, Products and Completed Operations, and Personal Injury. The limits shall be not less than \$500,000.00, per occurrence, Combined Single Limits (CSL) or its equivalent. The General Aggregate limit shall either apply separately to this CONTRACT or shall be at least twice the required occurrence limit.
 - 3. Business Automobile Liability - CONSULTANT shall provide coverage for all owned, non-owned and hired vehicles with limits of not less than \$500,000.00, per occurrence, Combined Single Limits (CSL) or its equivalent.
 - 4. ORGANIZATION shall be specifically included as an additional insured on the general liability policy.
- D. All such insurance required of CONSULTANT shall be primary to, and not contribute with, any insurance or self-insurance maintained by ORGANIZATION.

- E. Any exceptions to the insurance requirements in this section must be approved in writing by ORGANIZATION.
- F. Compliance with these insurance requirements shall not relieve or limit CONSULTANT's liabilities and obligations under this contract. Failure of ORGANIZATION to demand such certificate or other evidence of full compliance with these insurance requirements or failure of ORGANIZATION to identify a deficiency from evidence provided will not be construed as a waiver of CONSULTANT'S obligation to maintain such insurance.

Nondiscrimination

CONSULTANT warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, physical disability, sex, age or national origin.

- A. Compliance with Regulations. CONSULTANT shall comply with all of the requirements imposed by Title VI of the Civil Rights Act of 1964 and with the Regulations of the U.S. Department of Transportation relative to non-discrimination and maximum opportunities for Minority Business Enterprises (MBE) in carrying out the this Agreement. These actions are described in 49 CFR Part 21, "Non-Discrimination in Federally Assisted Programs of the Civil Rights Act of 1964" and Part 23 "Participation by Minority Business Enterprise in Department of Transportation Program" hereinafter referred to as Regulations which are being incorporated by reference and made a part of this Agreement.
- B. Equal Employment Opportunity. In carrying out the Agreement, CONSULTANT shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONSULTANT shall insert the foregoing provision modified only to show the particular contractual relationship in all its contracts in connection with the development or operation of the Agreement, except contracts for standard commercial supplies or raw materials, and shall require all subcontractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.
- C. Non-Discrimination. CONSULTANT with regards to work performed by it on the Service shall not discriminate on the selection or retention of subcontractors including procurements of material and leases of equipment. ORGANIZATION shall not participate, either directly or indirectly, in the discrimination prohibited by Section 21.5 of the Regulations.
- D. Incorporation of Provisions. CONSULTANT shall include the provisions of Paragraph A-C in every contract entered into in connection with the project including procurement of materials and leases of equipment unless exempt by the Regulations or instructions issued pursuant thereto.
- E. Prohibited Interest. Neither CONSULTANT nor any of its contractors or their subcontractors shall enter into any contract, subcontract or arrangement in connection with the Agreement or any property included or planned to be included in the Agreement, in which any member officer, or employee of CONSULTANT during his tenure or for one year thereafter has any interest, direct or indirect, other than those interests attendant to duly elected office holder or an appointed member of a public board. If any such present or former member officer, or

employee involuntarily acquires or had acquired prior to the beginning of his tenure any such interest, and if such interest is immediately disclosed to ORGANIZATION and such disclosure is entered upon the minutes of ORGANIZATION with the prior approval of ORGANIZATION, ORGANIZATION may waive the prohibition contained in this subsection.

CONSULTANT shall insert in all contracts entered into in connection with the Agreement and shall require its contractors to insert in each of their subcontracts, the following provision:

"No member, officer or employee of ORGANIZATION during his tenure or for one year thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof."

Headings

The headings of the sections of this Agreement are for the purpose of convenience only and shall not be deemed to expand or limit the provisions contained in such sections.

Entire Agreement

This Agreement constitutes the entire agreement between the parties and shall supersede and replace all other prior agreements or understandings, written or oral, relating to the matters set forth herein.

Amendment

This Agreement shall not be amended or modified other than in writing signed by the parties hereto.

Validity

The validity, interpretation, construction and effect of this Agreement shall be in accordance with and be governed by the laws of the State of Florida. In the event any provision hereof shall be finally determined to be unenforceable, or invalid, such unenforceability or invalidity shall not affect the remaining provisions of this Agreement which shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have set forth their hands and seals as of the day and year first above written.

FOR:

MetroPlan Orlando

William J. Peebles, P.A.

By: Harold W. Barley
Harold W. Barley

By: [Signature]

Title: Executive Director

Title: Principal

Date: 10-11-17

Date: 10-13-17

ATTEST:

ATTEST:

By: [Signature]

By: Anytharlee